

Burlington Planning Commission

149 Church Street

Burlington, VT 05401

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www.ci.burlington.vt.us/planning

Peter Potts, Chair
Bruce Baker, Vice-Chair
Yves Bradley
Lee Buffinton
Andy Montroll
Harris Roen
Jennifer Wallace-Brodeur
Vacant, Youth Member



Burlington Planning Commission

REGULAR MEETING

Tuesday, July 26, 2011 - 6:30 P.M.

Conference Room #12, Ground Floor, City Hall

AGENDA

Note: times given are
approximate unless
otherwise noted.

I. Agenda

II. Public Forum - Time Certain: 6:35 pm

The Public Forum is an opportunity for any member of the public to address the Commission on any relevant issue.

III. Report of the Chair – Peter Potts, Chair

IV. Report of the Director – David E. White, Director

V. HVAC Vents Exemption

VI. Downtown & Waterfront Plan

The Planning Commission will hear and discuss several elements of the Downtown & Waterfront Plan project including:

- **History of Waterfront Development** – A presentation by staff
- **Land Use Inventory and Buildout Analysis Report** – Completed June 30
- **Debrief on the Transportation Presentations** by Todd Litman

VII. Committee Reports

VIII. Commissioner Items

This agenda is available in alternative media forms for people with disabilities. Individuals with disabilities who require assistance or special arrangements to participate in programs and activities of the Dept. of Planning & Zoning are encouraged to contact the Dept. at least 72 hours in advance so that proper accommodations can be arranged. For information, call 865-7188 (865-7144 TTY). Written comments may be directed to the Planning Commission at 149 Church Street, Burlington, VT 05401.

IX. **Minutes / Communications** - Minutes for the July 12, 2011 Commission meeting.

X. **Adjourn** (9:00 p.m.)

Department of Planning and Zoning

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Ken Lerner, Assistant Director
Sandrine Thibault, AICP, Comprehensive Planner
Jay Appleton, Project Planner/GIS
Scott Gustin, AICP, Senior Planner
Mary O'Neil, AICP, Associate Planner
Nic Anderson, Planning & Zoning Clerk
Elsie Tillotson, Administrative Assistant



ZONING ADMINISTRATIVE INTERPRETATION

ZAI-11-01 External HVAC Exemption

<u>Reference:</u>	<i>Burlington Comprehensive Development Ordinance, Article 3, Part 3</i>
<u>Date:</u>	June 30, 2011

Pursuant to the authority granted to the City's Zoning Administrative Officer under 24 V.S.A. Section 4448, and Article 3, Part 3 of the *Burlington Comprehensive Development Ordinance*, the following administrative interpretation is intended to ensure consistency and clarity in the interpretation and application of the *Burlington Comprehensive Development Ordinance*. Pursuant to Sec. 2.3.5 of the *Burlington Comprehensive Development Ordinance* any decision or act taken by the administrative officer may be appealed to the Development Review Board as specified under the requirements of Article 12.

The following interpretation and procedure is to be used regarding the applicability of the *Burlington Comprehensive Development Ordinance* relative to the permitting and allowance of external vents and condensing units. This interpretation shall apply for zoning permitting purposes only.

As provided below, the placement of external vents and ground-mounted condensing units in any zoning district shall not be required to obtain an individual zoning permit and can be provided a free Notice of Non-Applicability in order to obtain a Construction Permit from DPW-ISD.

1. This exemption shall be limited to external vents (similar in nature, size and configuration of those typical for replacement heating systems and dryers) occupying an area in the aggregate of no larger than 12 square inches, and ground-mounted condensing units (typical of those for air conditioning) occupying occupying an area in the aggregate of no more than 16-square feet;
2. External vents shall not be placed on the front façade of any building. Such vents shall be placed on a rear, or secondarily side, façade of the building and shielded from view from the street where feasible.
3. External condensing units shall not be placed at the front of any building nor shall they encroach into any required setback. Such equipment shall be placed in a rear, or secondarily side, yard and shielded from view from the street.
4. This exemption shall not include any HVAC equipment regardless of size, location or configuration used in connection with a commercial kitchen which shall be required to obtain a zoning permit.

The placement of such vents and equipment in any other location, size or circumstance shall require the issuance of a zoning permit prior to the issuance of a Construction Permit.

David E. White, AICP, Director of Planning & Zoning

Land Use Inventory and Buildout Analysis of Downtown & Waterfront Area *Burlington, Vermont*



Prepared By: Milone & MacBroom, Inc.

EXECUTIVE SUMMARY

INTRODUCTION

The City of Burlington contracted with Milone & MacBroom, Inc. to complete a land use inventory and buildout analysis of its Downtown and Waterfront Study Area as an initial step in a larger planning process, funded by the U.S. Department of Housing and Urban Development's Sustainable Communities Challenge Grant. This initial phase consisted of four tasks: updating the City's existing Geographic Information System (GIS) building footprint data; calculating an effective density for the study area through floor area ratios; performing a buildout analysis; and creating an inventory of all parcels within the study area using the American Planning Association's Land Based Classification Standards (LBCS). The results of these four tasks are summarized below. Detailed GIS data, tables and maps were provided to the City Planning Department.

BUILDING FOOTPRINT UPDATE

The Vermont Center for Geographic Information's 2004 orthophotos provided the basis for digitizing building footprints missing from the City's existing building footprints GIS layer. (Links to the orthophotos are available in the resources section of this summary.) In addition to the orthophotos, site plans and permitting information provided by the City Planning Department were used to incorporate buildings constructed after 2004. Above- and under-ground parking structures were included in the building footprints layer, upon request by the City Planning Department. The building footprints were field verified in April 2011.

The *Building Footprint Update Map* shows the updated building footprint layer.

EFFECTIVE FLOOR AREA RATIO

As part of the existing conditions inventory, an effective Floor Area Ratio (FAR) was calculated for each parcel. Because of discrepancies between the Assessor's data and actual parcel area, all parcels within the study area were recalculated to determine area. Building data came from the revised building footprint layer, Assessor's data and field observations as to the number of stories. The effective FAR provides another way of comparing current density to what is allowed under current zoning regulations.

The results are shown in the *Existing Development Density Map*.

BUILDOUT ANALYSIS

The buildout analysis of the Downtown and Waterfront study area relied on the latest Assessor's and zoning data, provided by the City Planning Department. Parcels were grouped by zoning sub-districts, and each was analyzed under a 100% buildout scenario, regardless of existing buildings or vacancy. In addition, current zoning regulations offer bonus densities under certain conditions, so where applicable, an additional set of buildout figures was calculated assuming 100% buildout under the bonus densities allowed in each sub-zone.

It is important to remember that the buildout analysis did not factor in parking requirements, or site-level analysis. Therefore, the buildout results represent only an approximation of what may be built under the current regulatory scheme. A complete buildout of the Downtown and Waterfront, as presented by this analysis, is neither necessarily possible, nor expected.

The results of the buildout analysis for mixed-use and non-residential zoning sub-districts are presented in square feet of development. It is impossible to assume a certain split between commercial and residential development in mixed-use areas because that is normally determined by the market, and this is purely a zoning and land use analysis. Nevertheless, the mixed-use buildout results indicate the potential for further mixed-use development.

The results for residential zoning sub-districts are given in number of dwelling units, rather than square footage of development.

The following table summarizes the results of the buildout analysis by each zoning sub-district. The analysis revealed the potential for an additional 18.2 million square feet of mixed-use, commercial development, and an additional 525 residential units in residential zones.

The buildout analysis results are shown in the *Buildout Potential under Current Zoning Map*. The net results of the Buildout compared to existing development are available in the *Net Development Potential Map*.

Burlington Downtown and Waterfront Buildout Analysis Results

Zoning Sub-District	Zoning District	Existing Mixed-Use Buildings (sq ft)	Total Mixed-Use Buildout (sq ft)	Net Mixed-Use Buildout (sq ft)	Existing Residential (units)	Total Residential Buildout (units)	Net Residential Buildout (units)
Bank College East	Downtown Waterfront	205,908	231,789	25,881	0	N/A	N/A
Bank College West	Downtown Waterfront	675	220,217	219,542	0	N/A	N/A
Battery Street Transition	Battery Street Transition	372,593	711,749	339,156	38	N/A	N/A
Buel North	Downtown Transition	509,396	1,836,489	1,327,093	148	N/A	N/A
Buel South	Downtown Transition	1,014,955	3,429,220	2,414,265	120	N/A	N/A
College South	Downtown Waterfront	211,168	551,379	340,211	0	N/A	N/A
Downtown	Downtown	4,869,690	12,805,203	7,935,513	672	N/A	N/A
Light Manufacturing	Enterprise	186,588	2,543,637	2,357,049	0	N/A	N/A
Main	Downtown Transition	210,115	804,403	594,288	84	N/A	N/A
Pearl Bank East	Downtown Waterfront	49,667	852,055	802,388	0	N/A	N/A
Pearl North East	Downtown Waterfront	9,500	460,690	451,190	31	N/A	N/A
Public Trust - Lakeshore	Downtown Waterfront - Public Trust	252,138	1,609,202	1,357,064	0	N/A	N/A
Recreation Greenspace	RCO	32,680	N/A	N/A	0	N/A	N/A
Recreation Open Space	RCO	22,323	N/A	N/A	0	N/A	N/A
Residential - High Density	Residential - High Density	N/A	N/A	N/A	1,195	1,712	517
Residential - Medium Density	Residential - Medium Density	N/A	N/A	N/A	68	83	15
Waterfront Residential - Medium Density	Waterfront Residential - Medium Density	N/A	N/A	N/A	42	35	-7
TOTAL:		7,947,396	26,056,033	18,163,640	1,305*	1,830	525

*Only the existing residential units within residential zones, in order to compare with the potential within those zones. There is a total of 2,398 existing residential units within the entire study area.

LAND BASED CLASSIFICATION STANDARDS

All parcels within the Downtown and Waterfront study area were field surveyed and coded in accordance with the five dimensions of the Land Based Classification Standards (LBCS) model, during April 18-20, 2011. The results of the LBCS field survey represent an accurate point-in-time inventory of existing uses; however, they are only valid for that one point in time, as uses may change. Wherever possible in the field, primary data was used to categorize the uses within each dimension; however, Assessor's data and the Downtown Business Inventory (furnished by the City Planning Department) were used as supplements as needed. In addition, the number of housing units was determined in the field. When the number of units could not be determined, the number of units in the Assessor's data was recorded. Finally, residential outbuildings were not classified.

The five dimensions of the LBCS include site development, structure, activity, function and ownership, and are described in the sidebar. Within each dimension are several "top-level" categories which are further broken down into sub-categories and four-digit codes. Results of the top-level coding for each dimension are presented in the series of *Top Level Land Based Classification Standards Maps*.

LBCS Dimensions

Activity refers to the actual use of land based on its observable characteristics. It describes what actually takes place in physical or observable terms (e.g., farming, shopping, manufacturing, vehicular movement, etc.). An office activity, for example, refers only to the physical activity on the premises, which could apply equally to a law firm, a nonprofit institution, a court house, a corporate office, or any other office use. Similarly, residential uses in single-family dwellings, multi-family structures, manufactured houses, or any other type of building, would all be classified as residential activity.

Function refers to the economic function or type of establishment using the land. Every land use can be characterized by the type of establishment it serves. Land-use terms, such as agricultural, commercial, industrial, relate to enterprises. The type of economic function served by the land use gets classified in this dimension; it is independent of actual activity on the land. Establishments can have a variety of activities on their premises, yet serve a single function. For example, two parcels are said to be in the same functional category if they belong to the same establishment, even if one is an office building and the other is a factory.

Structure refers to the type of structure or building on the land. Land-use terms embody a structural or building characteristic, which suggests the utility of the space (in a building) or land (when there is no building). Land-use terms, such as single-family house, office building, warehouse, hospital building, or highway, also describe structural characteristic. Although many activities and functions are closely associated with certain structures, it is not always so. Many buildings are often adapted for uses other than its original use. For instance, a single-family residential structure may be used as an office.

Site development character refers to the overall physical development character of the land. It describes "what is on the land" in general physical terms. For most land uses, it is simply expressed in terms of whether the site is developed or not. But not all sites without observable development can be treated as undeveloped. Land uses, such as parks and open spaces, which often have a complex mix of activities, functions, and structures on them, need categories independent of other dimensions. This dimension uses categories that describe the overall site development characteristics.

Ownership refers to the relationship between the use and its land rights. Since the function of most land uses is either public or private and not both, distinguishing ownership characteristics seems obvious. However, relying solely on the functional character may obscure such uses as private parks, public theaters, private stadiums, private prisons, and mixed public and private ownership. Moreover, easements and similar legal devices also limit or constrain land-use activities and functions. This dimension allows classifying such ownership characteristics more accurately.

Source: American Planning Association

It is important to note that the dominant land use only is depicted in the top-level mapping. Additional existing uses are not represented, but are recorded in the GIS and Excel spreadsheet data provided to the City Planning Department.

Given the parameters of the LBCS model, some assumptions were made in coding the data. For example, public and/or commercial parking lots were recorded as a “personal service” within the function dimension because none of the existing transportation-related categories applied. The number of residential units is captured within the structure dimension; however, is limited to 99. There may be some multi-family buildings with more than 99 units. Transient residential units are coded in the Activity dimension. These include hotel rooms, shelter spaces, Ronald McDonald House spaces and other types of transient residential units. Note that these transient residential uses were removed from the residential buildout analysis as they are unique uses.

DISCLAIMER

This project is funded by a Municipal Planning Grant, awarded by the Vermont Department of Economic, Housing and Community Development.

RESOURCES

City of Burlington Assessor's Property Database: <http://www.ci.burlington.vt.us/assessor/search/>

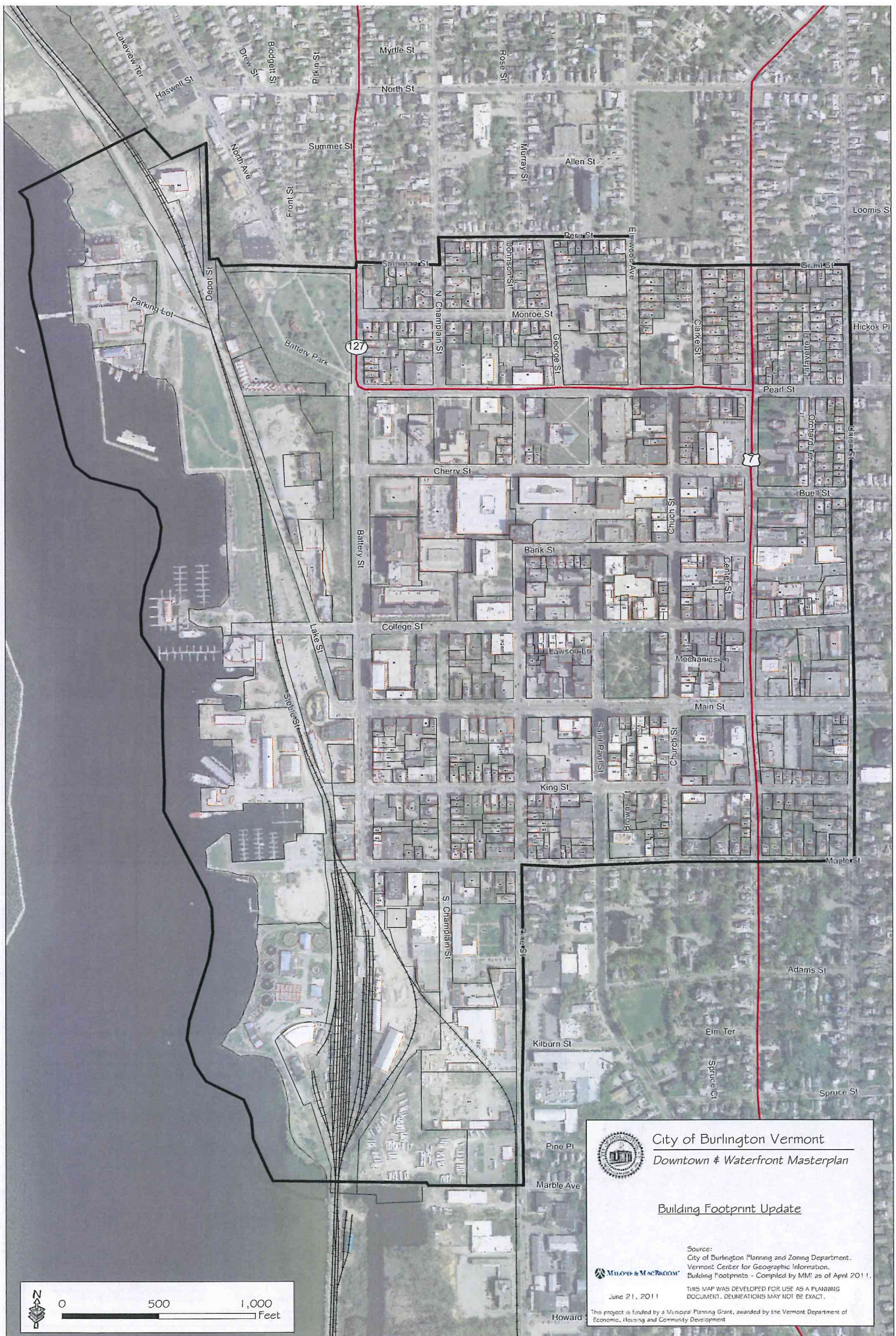
Land Based Classification Standards information: <http://www.planning.org/lbcs/>

Vermont Center for Geographic Information 2004 orthophotos:

http://www.vcgi.org/dataware/image_library/moreinfo.cfm?catalog_id=8&DatasetGroup_id=5&Dataset_id=24&Dataset_name=VTORTHO_0_16M_PAN_2004

http://www.vcgi.org/dataware/image_library/moreinfo.cfm?catalog_id=8&DatasetGroup_id=7&Dataset_id=18&Dataset_name=VTORTHO_0_16M_CLR_2004

1. Building Footprint Update
2. Existing Development Density
3. Buildout Potential Under Current Zoning
4. Net Development Potential Buildout – Existing Development
5. Activity Dimension – Top Level Land Based Classification Standards (LBCS)
6. Function Dimension – Top Level Land Based Classification Standards (LBCS)
7. Structure Dimension - Top Level Land Based Classification Standards (LBCS)
8. Site Dimension - Top Level Land Based Classification Standards (LBCS)
9. Ownership Dimension - Top Level Land Based Classification Standards (LBCS)



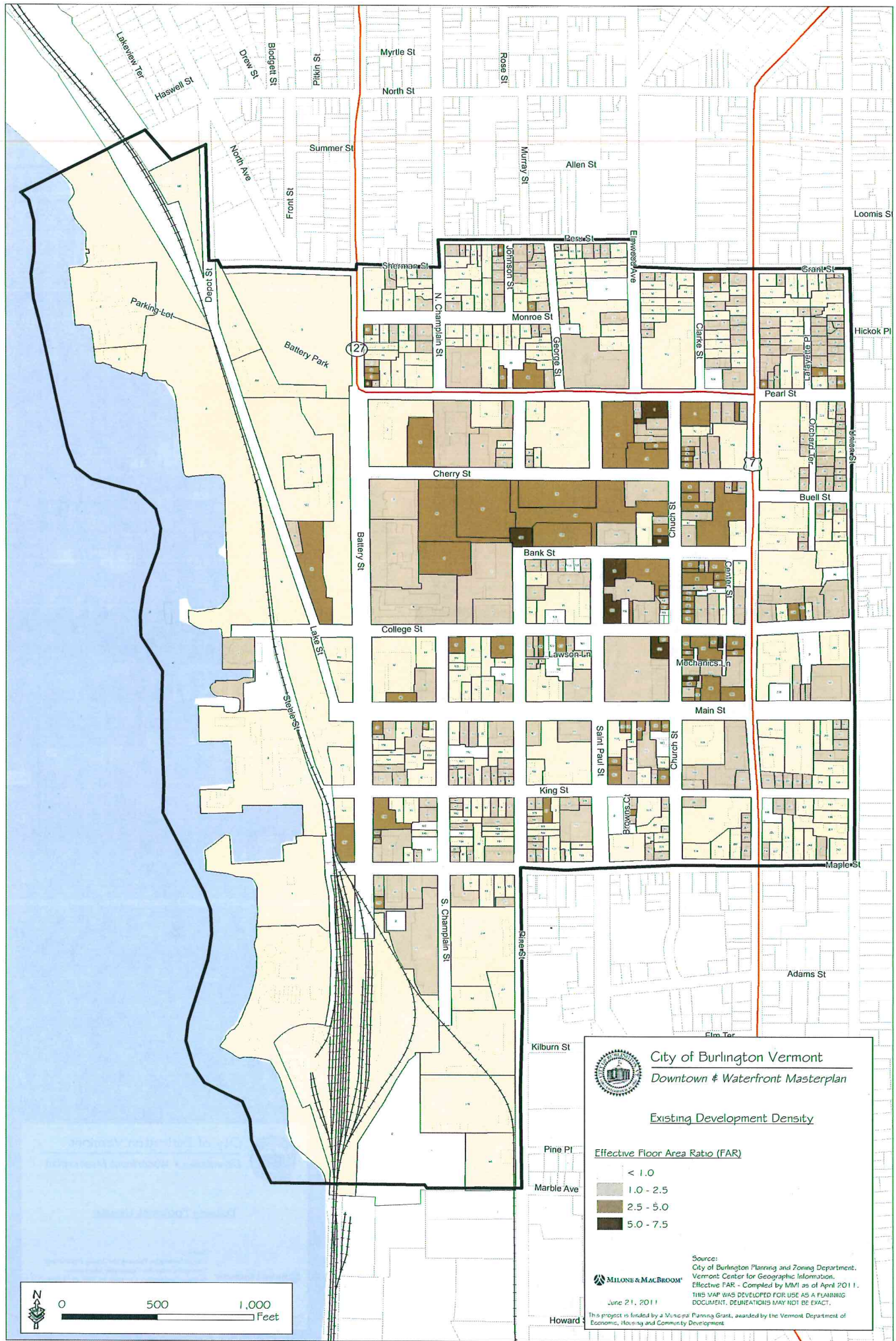
City of Burlington Vermont
Downtown & Waterfront Masterplan

Building Footprint Update

Source:
City of Burlington Planning and Zoning Department.
Vermont Center for Geographic Information.
Building Footprints - Compiled by NMV as of April 2011.
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DOCUMENT. DELIBERATIONS MAY NOT BE EXACT.

June 21, 2011

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City of Burlington Vermont Downtown & Waterfront Masterplan

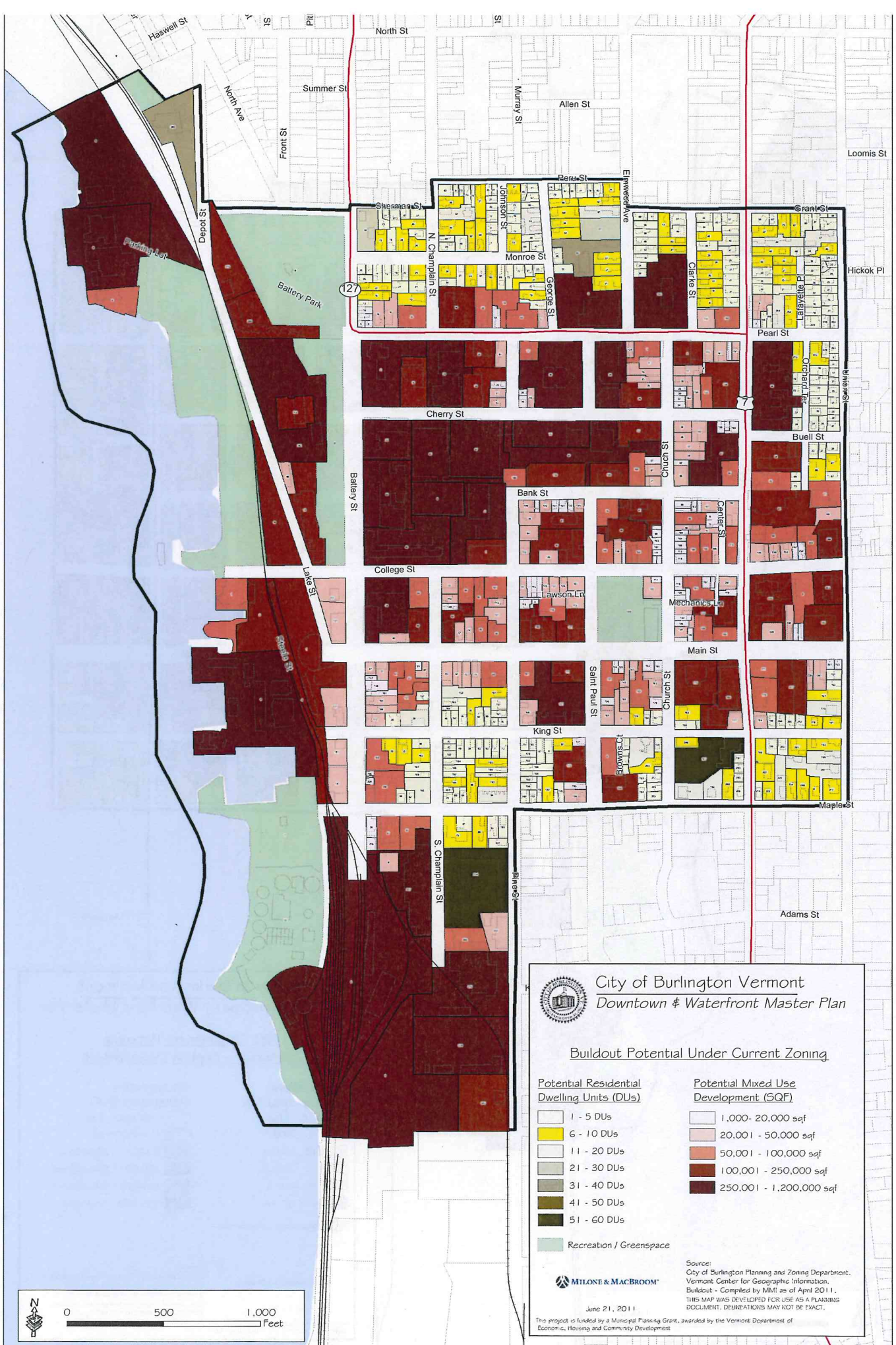
Existing Development Density

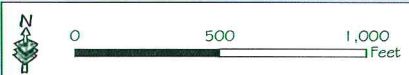
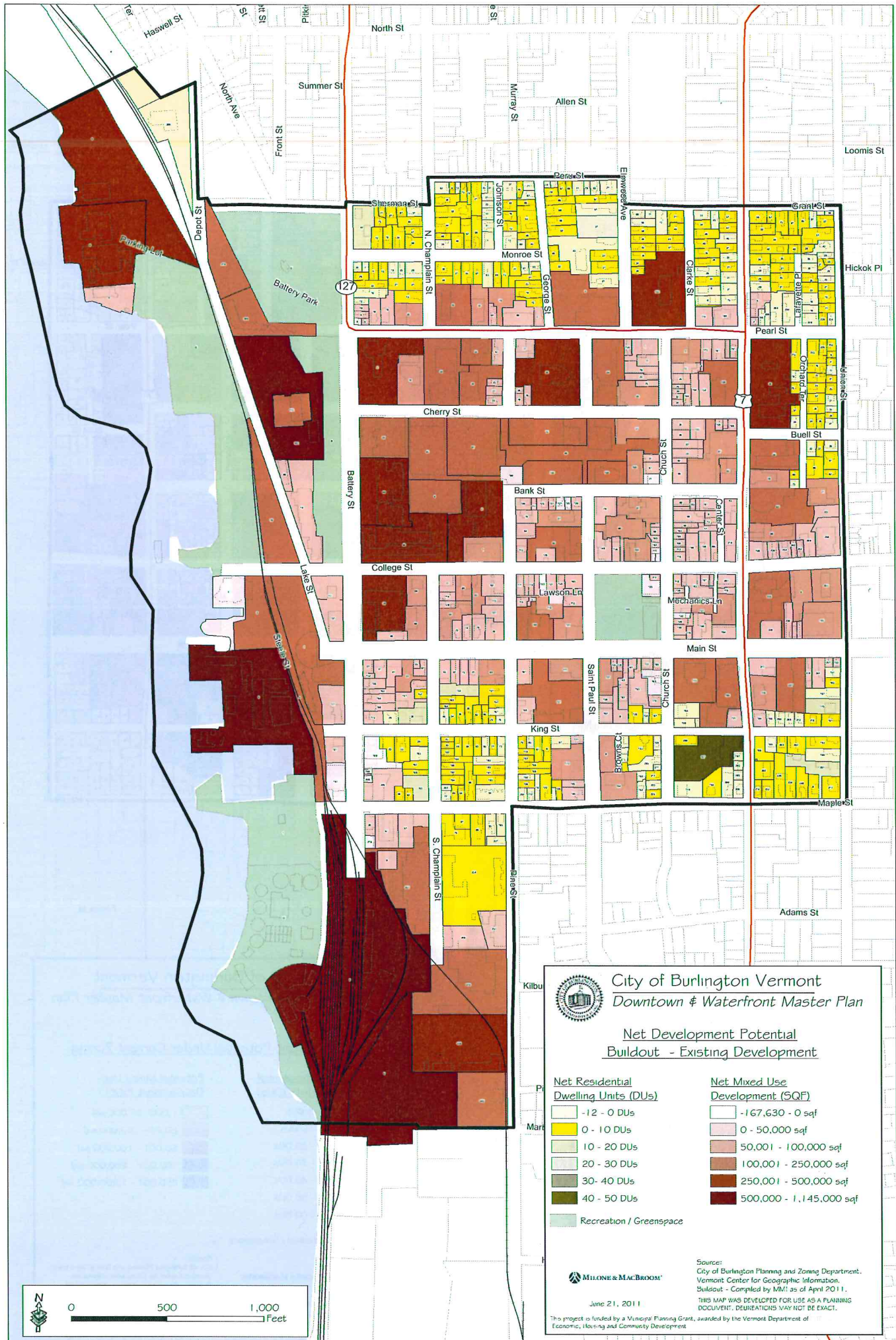
Effective Floor Area Ratio (FAR)


- < 1.0
- 1.0 - 2.5
- 2.5 - 5.0
- 5.0 - 7.5

Source:
City of Burlington Planning and Zoning Department,
Vermont Center for Geographic Information,
Effective FAR - Compiled by MMJ as of April 2011.
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City of Burlington Vermont

Downtown & Waterfront Master Plan

Net Development Potential

Buildout - Existing Development

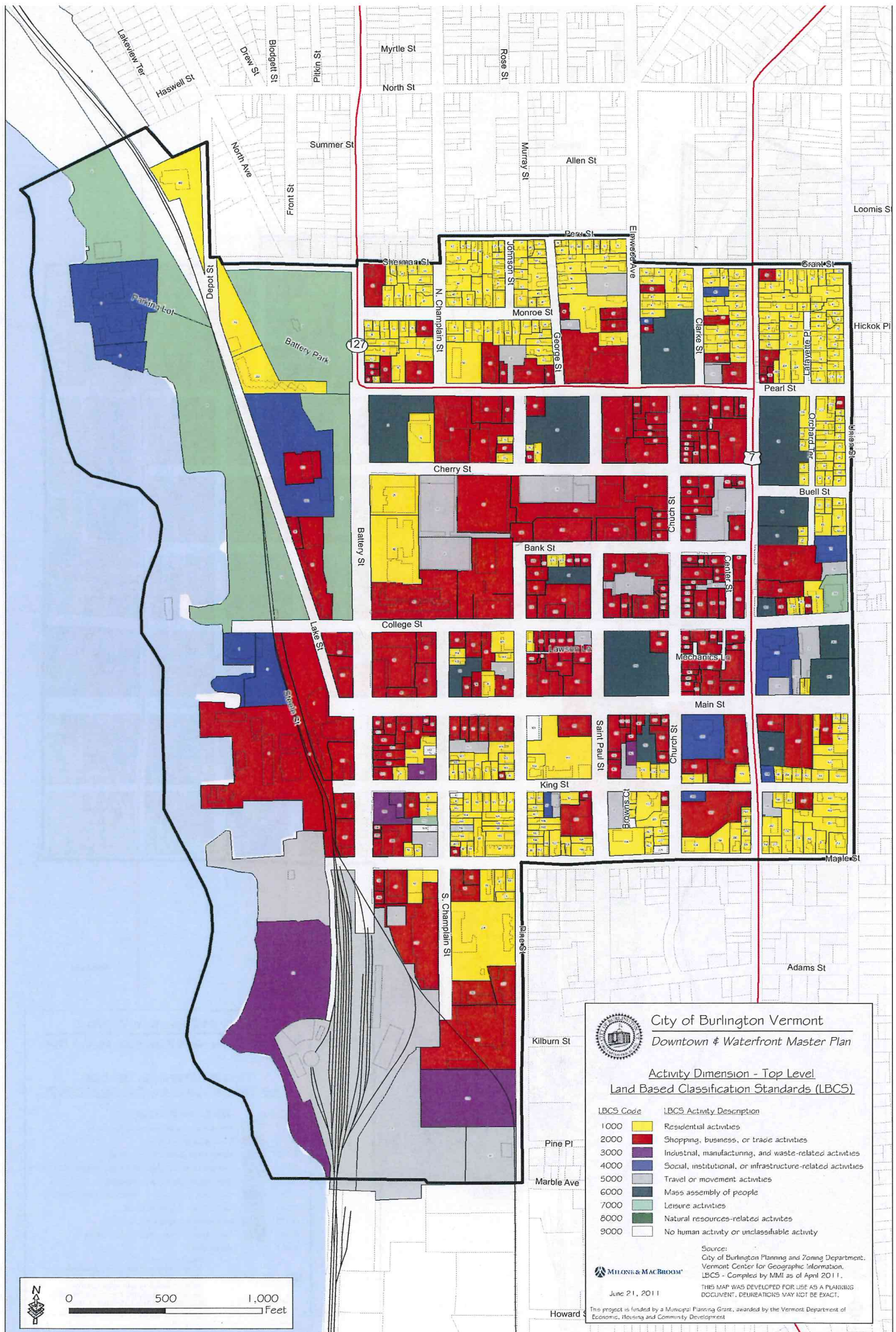
Net Residential Dwelling Units (DUs)	Net Mixed Use Development (SQF)
-12 - 0 DUs	-167,630 - 0 sqf
0 - 10 DUs	0 - 50,000 sqf
10 - 20 DUs	50,001 - 100,000 sqf
20 - 30 DUs	100,001 - 250,000 sqf
30 - 40 DUs	250,001 - 500,000 sqf
40 - 50 DUs	500,000 - 1,145,000 sqf
Recreation / Greenspace	

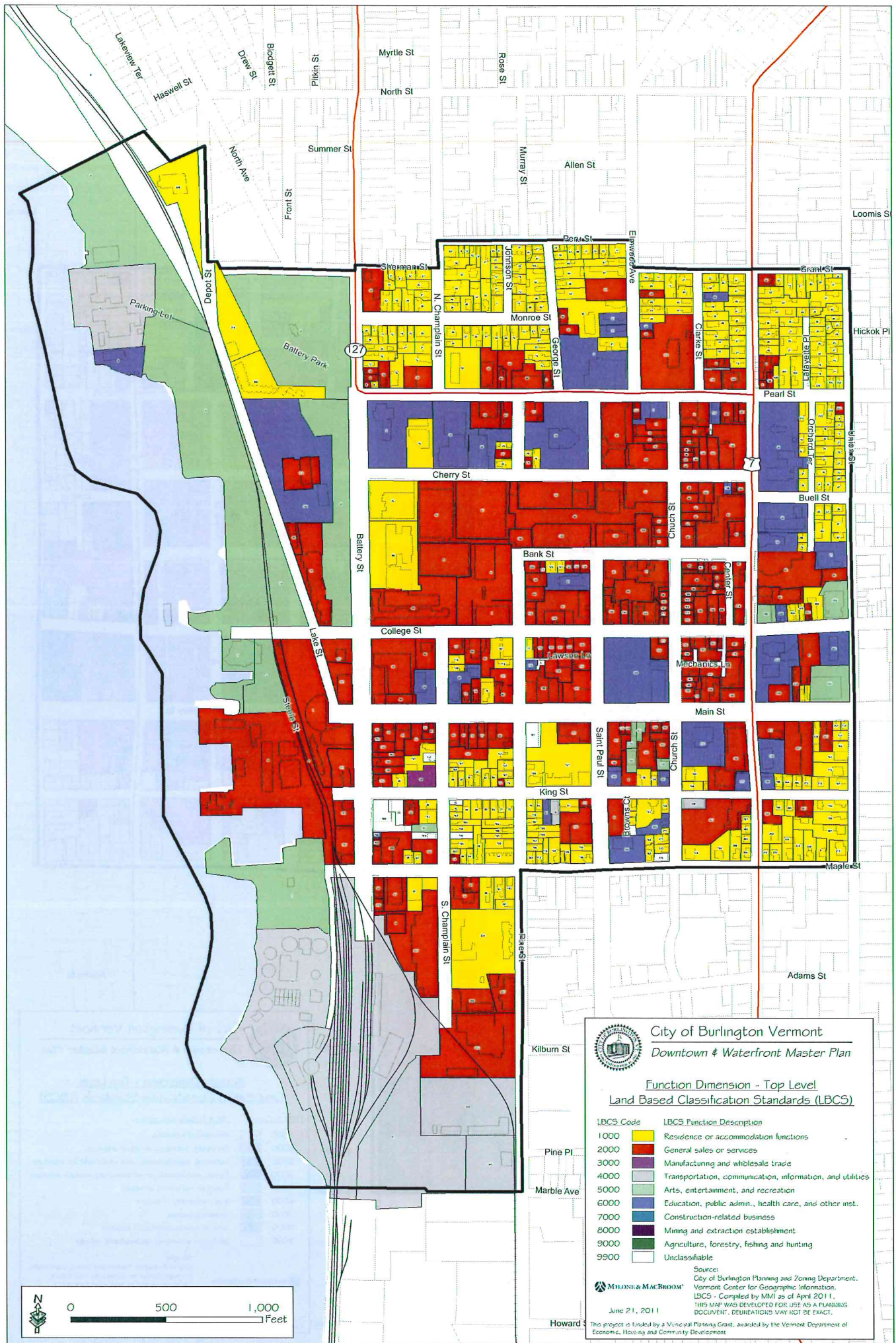


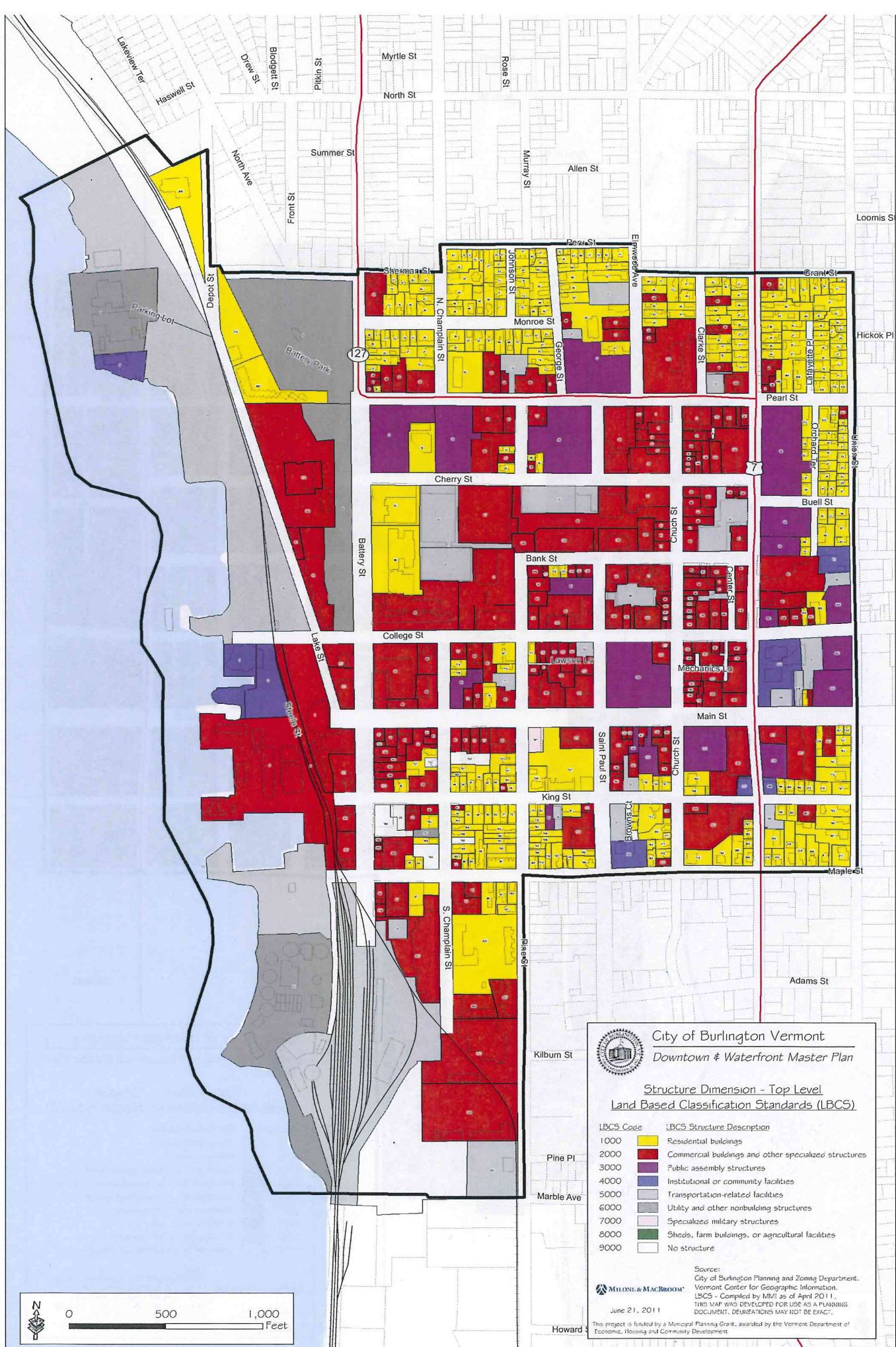
Source: City of Burlington Planning and Zoning Department.
Vermont Center for Geographic Information.
Buildout - Compiled by MM/ as of April 2011.
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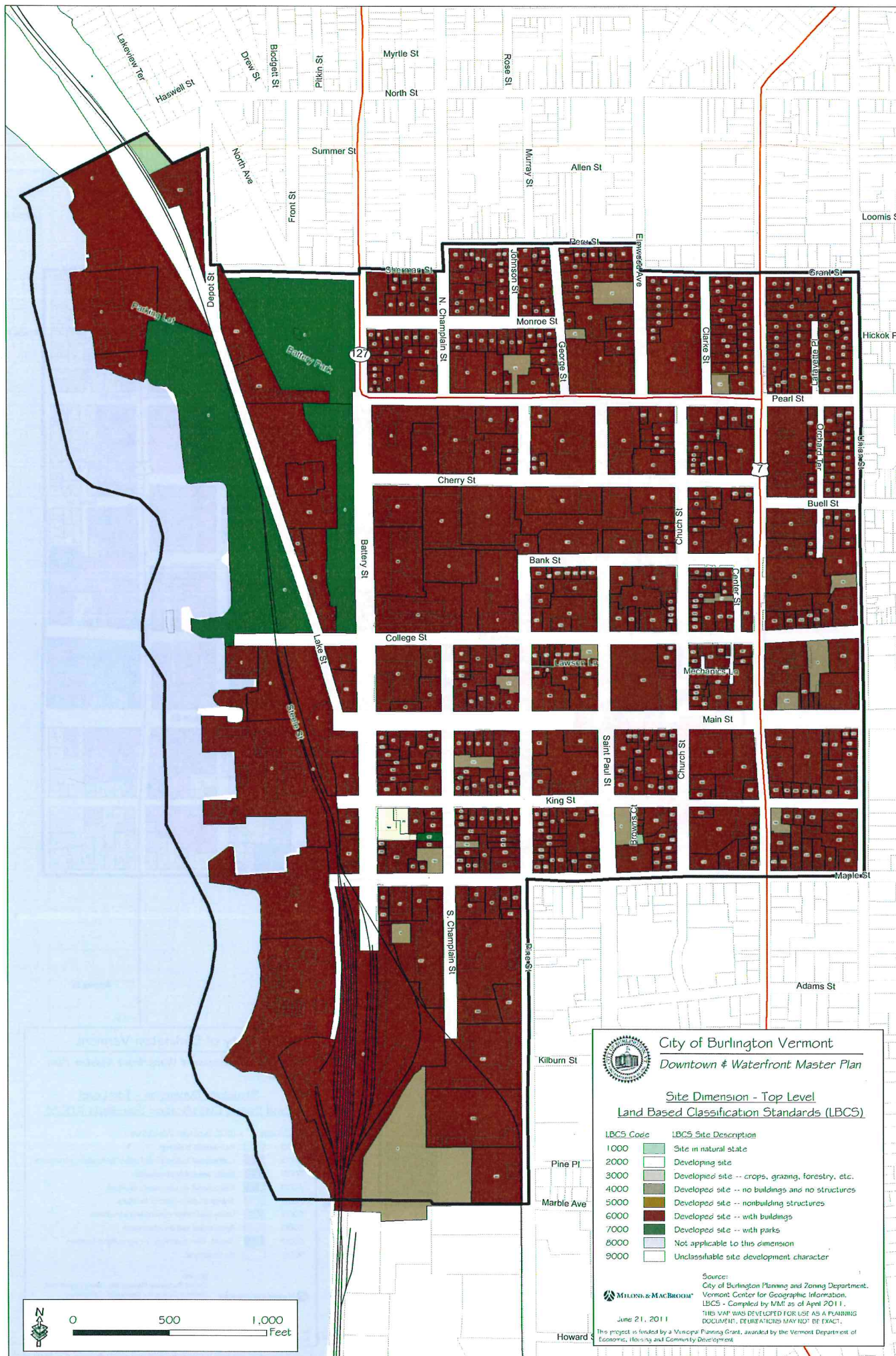
City of Burlington Vermont
Downtown & Waterfront Master Plan

Structure Dimension - Top Level
Land Based Classification Standards (LBCS)

LBCS Code	LBCS Structure Description
1000	Residential buildings
2000	Commercial buildings and other specialized structures
3000	Public assembly structures
4000	Institutional or community facilities
5000	Transportation-related facilities
6000	Utility and other nonbuilding structures
7000	Specialized military structures
8000	Sheds, farm buildings, or agricultural facilities
9000	No structure

Source:
City of Burlington Planning and Zoning Department,
Vermont Center for Geographic Information,
LBCS - Compiled by MM/ as of April 2011.
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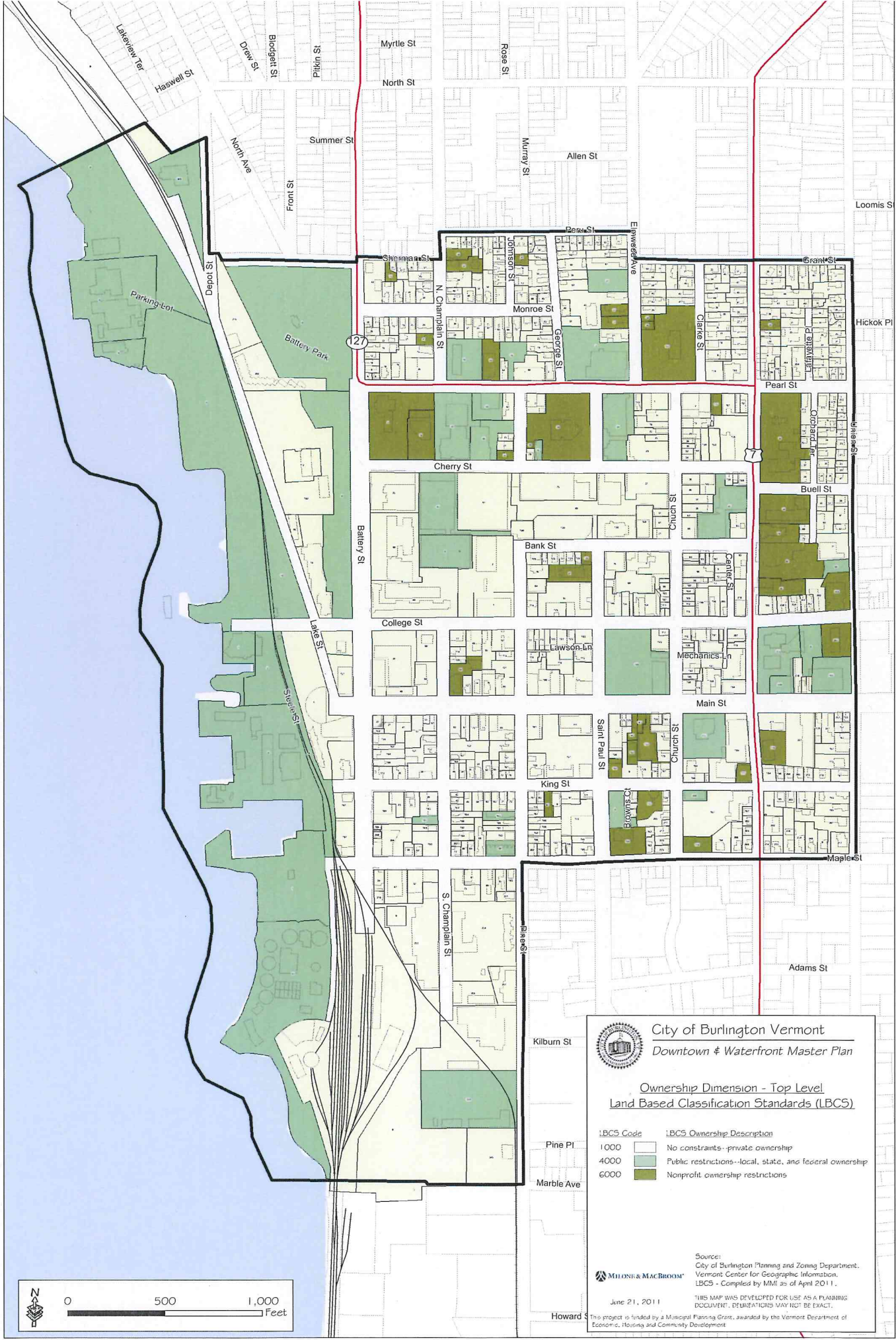


City of Burlington Vermont
Downtown & Waterfront Master Plan

Site Dimension - Top Level
Land Based Classification Standards (LBCS)

LBCS Code	LBCS Site Description
1000	Site in natural state
2000	Developing site
3000	Developed site -- crops, grazing, forestry, etc.
4000	Developed site -- no buildings and no structures
5000	Developed site -- nonbuilding structures
6000	Developed site -- with buildings
7000	Developed site -- with parks
8000	Not applicable to this dimension
9000	Unclassifiable site development character

Source:
City of Burlington Planning and Zoning Department.
Vermont Center for Geographic Information.
LBCS - Compiled by MMF as of April 2011.
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City of Burlington Vermont

Downtown & Waterfront Master Plan

Ownership Dimension - Top Level

Land Based Classification Standards (LBCS)

LBCS Code	LBCS Ownership Description
1000	No constraints - private ownership
4000	Public restrictions - local, state, and federal ownership
6000	Nonprofit ownership restrictions

Source:

City of Burlington Planning and Zoning Department,
Vermont Center for Geographic Information,
LBCS - Compiled by MMI as of April 2011.

June 21, 2011

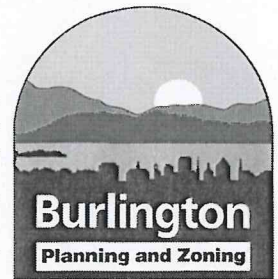
This map was developed for use as a planning document. DEPICTIONS MAY NOT BE EXACT.

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*Peter Potts, Chair
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MEMORANDUM

TO: Planning Commission
FROM: Sandrine Thibault, Comprehensive Planner
DATE: Wednesday, July 20, 2011
RE: Downtown & Waterfront Plan – Contracts Approval
Boiler Plate Contract language

As warranted by the City procurement policy effective 8/21/2000, any contracts, regardless of the amount, must be approved by the board or commission in those departments governed by a board or commission. In order to satisfy this requirement, the Commission must vote to approve the following contracts.

In preparation for the contract approval for Activities 2 & 3 of the Downtown & Waterfront Plan, the Commission has asked to review the boiler plate contract language that the Department has been and anticipates using for future contracts. The language is attached for the Commission's review.

**CITY OF BURLINGTON, VERMONT
AGREEMENT FOR PLANNING SERVICES
WITH
?**

THIS AGREEMENT is made this ?th day of September, 2011 by and between the City of Burlington, a Vermont municipal corporation, hereinafter referred to as CITY and ?, with its principal place of business at ?, authorized to do business in Vermont, hereinafter referred to as CONSULTANT.

WHEREAS, the CITY proposes to perform a study, hereinafter known as Activities 2 – Master Planning Process & Activity 3 – Form-Based Code Development of the Downtown & Waterfront Plan, in the City of Burlington, Vermont; and

WHEREAS, the CONSULTANT is ready, willing, and able to perform the required project tasks to further that effort;

NOW THEREFORE, in consideration of these premises and the mutual covenants herein set forth, it is agreed by the parties hereto as follows:

1. SCOPE OF WORK

See Appendix A.

2. TIME SCHEDULE

The CONSULTANT agrees that work to be performed under this Agreement, effective upon execution, shall be completed no later than after ? unless determined otherwise by mutual consent.

3. DELIVERABLES

See Appendix A.

4. CONDITIONS

- A. All work shall be completed in compliance with Section 1 of this contract. Any significant problems, delays or adverse conditions, actual or anticipated, which will materially affect the project objectives or prevent the timely completion of the project, shall promptly be brought to the attention of the CITY.
- B. Acknowledgment of the City of Burlington Dept of Planning & Zoning support must be included in any and all publications, renderings and project publicity, including audio/visual materials developed under this contract.
- C. The CONSULTANT shall perform all work using applicable standards, specifications and policies.
- D. The CONSULTANT shall conform to the text of 18 U.S.C. 1913, which prohibits the use of sub-grant funds for lobbying.
- E. The CONSULTANT shall comply with the Single Audit Act of 1984 for State and local governments.

Downtown & Waterfront Plan – Activities 2 & 3

? Contract Agreement

- F. The CONSULTANT shall comply with Title VI of the Civil Rights Act of 1964, as amended, prohibiting employment discrimination; and section 504 of the Rehabilitation Act of 1973, as amended, prohibiting the discrimination against people with disabilities; and the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disability; and the Age Discrimination Act of 1975 which prohibits discrimination on the basis of age.
- G. The CONSULTANT shall provide free and open access to the CITY and its authorized representatives to the project and all accounts, records, information and books relative thereof including the right to make excerpts and transcripts.
- H. The CONSULTANT shall furnish the CITY with periodic reports, statements and other documentary data and information as may be requested relative to the progress and status of the project and as to the compliance with the terms and conditions of this Agreement.
- I. All maps, data, photographs, slides, renderings, reports, discs, GIS files and material related to this Contract shall be accessible to, and become property of the CITY.
- J. The CONSULTANT shall retain all records pertaining to this agreement for a period of three (3) years after the final payment and all other pending matters are closed. If an audit, litigation or action involving records is started before the end of the three-year period, whichever is later.

The following three provisions are part of the City of Burlington's Terms & Conditions under the HUD Office of Sustainable Housing and Communities grant agreement.

- K. All deliverables, or any part thereof, and any independent products and special products arising from this award, when published by the Grantee or other participants in the work shall contain the following acknowledgment and disclaimer:

"The work that provided the basis for this publication was supported by funding under an award with the U.S. Department of Housing and Urban Development. The substance and findings of the work are dedicated to the public. The author and publisher are solely responsible for the accuracy of the statements and interpretations contained in this publication. Such interpretations do not necessarily reflect the views of the Government."
- L. The CITY is obliged to notice all of its consultants that: "HUD reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for Federal government purposes: (a) the copyright in any work developed under this award, sub-award, or contract awarded under this grant; and (b) any rights of copyright to which a Grantee or sub-grantee or a contractor purchases ownership with award funds."
- M. Section 508 of the Rehabilitation Act of 1973 requires all Federal electronic and information technology to be accessible by people with disabilities. All Products of Work that will be posted on HUD's website must meet HUD's Web Publication Standards and Procedures at www.hud.gov/assist/webpolicies.cfm.

5. REPORTING & REVIEW REQUIREMENTS

- A. The CONSULTANT shall submit deliverables for review and comment by the CITY, to the Department of Planning & Zoning after the work is completed.

Downtown & Waterfront Plan – Activities 2 & 3

? Contract Agreement

- B. The CONSULTANT shall modify the deliverables, as necessary, to incorporate the comments from the review and submit the revised deliverables to the Department of Planning & Zoning.

6. TERMINATION

- A. The CITY or the CONSULTANT may terminate this contract for any reason giving written notice at least thirty (30) days in advance.
- B. Failure of the CONSULTANT to comply with the terms of this contract or to fail to complete the elements described in Section 1 within the Period of Performance shall be deemed a material breach of this contract and may constitute termination without the necessity of written notice.
- C. Failure of the CITY to pay the CONSULTANT as agreed upon and in a timely manner shall be deemed a material breach of this Contract and may constitute termination without the necessity of written notice.

7. INSURANCE

Consultant agrees to carry the following insurance during the term of this Agreement:

- Workmen's Compensation and Employer's Liability Insurance in compliance with statutory limits.
- Comprehensive General Liability Insurance including Products Completed, Contractual, Property, and Personal Injury coverage with combined single limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.
- Professional Liability Insurance with a limit of \$1,000,000 per claim and in the aggregate.
- Automobile Liability Insurance including non-owned and hired automobiles with a combined single limit of \$1,000,000 per occurrence.
- Certificates of insurance will be furnished upon request.

8. INDEMNIFICATION

The City and Consultant shall at all times indemnify and save harmless each other and their officers, and employees on account of any claims, damages, losses, litigation, expenses, counsel fees, and compensation arising out of any claims, damages, personal injuries and/or property losses sustained by any person or entity, to the extent caused by the negligent acts, errors or omissions of the indemnifying party, its employees, or subcontractors in connection with the Project, and/or under this Agreement.

9. MODIFICATIONS

No changes, modifications, or amendments in the terms and conditions of this Agreement shall be effective unless reduced to writing, numbered and signed by the duly authorized representatives of the City and the Consultant.

10. THE AGREEMENT FEE

- A. General. The CITY agrees to pay the CONSULTANT and the CONSULTANT agrees to accept as full compensation for performance for all services and expenses encompassed under this Agreement, payment at the rates specified in below.
- B. Maximum Limiting Amount. The total amount to be paid to the CONSULTANT and all sub-consultants hereunder for all services covered through this agreement shall not exceed a maximum limiting amount (MLA) of dollars (\$). Any work which will result in exceeding the MLA shall be negotiated and mutually agreed upon by both parties.

- C. Payments. The CONSULTANT will invoice the CITY after each specific task referred to in Appendix A is complete. 20% of the total contract amount will be paid upon delivery and approval of all final work products by the CITY.

The CITY will make payments within 30 days after approval of the invoices.

11. RELATIONSHIP

Consultant accepts a relationship of trust and confidence with the CITY, which will be relying upon Consultant's expert services. Consultant will perform its work under this Agreement utilizing at least that level of professional competence, which is consistent with usual and customary planning practices.

12. PAYMENT PROCEDURES

Invoices (one original) shall be submitted to:

Sandrine Thibault, AICP
Department of Planning & Zoning
149 Church Street, City Hall, 1st Floor
Burlington, VT 05401.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

?

By: _____

Date: _____

CITY OF BURLINGTON, VERMONT

By: _____

David E. White, AICP
Director, Department of Planning & Zoning

Date: _____